

EXHIBIT

A

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----X

4 SUNDRA FRANKS,

5 PLAINTIFF,

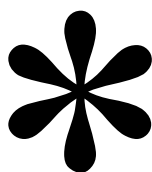
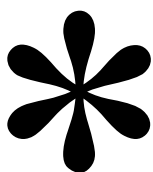
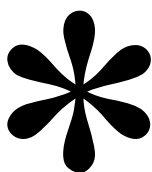
6
7 - AGAINST - 15-CV-6178 (RRM) (JO)

8
9 THE CITY OF NEW YORK, DETECTIVE RAY WITTICK,
10 SHIELD NO. 710, INDIVIDUALLY AND IN HIS OFFICIAL
11 CAPACITY AND NEW YORK CITY POLICE OFFICERS "JOHN
12 DOE" 1-2, THE TRUE NAMES BEING CURRENTLY UNKNOWN,
13 INDIVIDUALLY AND IN THEIR OFFICIAL CAPACITIES,

14
15 DEFENDANTS.

16 -----X

17
18 EXAMINATION BEFORE TRIAL OF THE DEFENDANT,
19 DETECTIVE RAY WITTICK, TAKEN BY THE PLAINTIFF,
20 PURSUANT TO NOTICE, HELD AT THE OFFICES OF
21 MICHAEL LAMONSOFF, ESQ, 32 OLD SLIP, NEW YORK,
22 NEW YORK 10005, HELD ON TUESDAY, JULY 12, 2016,
23 COMMENCING AT 12:30 A.M., BEFORE DENISE L. WRIGHT,
24 A SHORTHAND COURT REPORTER AND NOTARY PUBLIC WITHIN
25 AND FOR THE STATE OF NEW YORK.



1 R. WITTICK

2 A WELL, I'M JUST CONFUSED IF YOU MEAN
3 LONG-TERM INVESTIGATIONS, SHORT-TERM
4 INVESTIGATIONS, MID-TERM INVESTIGATIONS. I DON'T
5 KNOW. I'M NOT TOO SURE WHICH, WHAT.

6 Q ALL OF THEM?

7 A ALL OF THEM?

8 Q HUH-HUH.

9 A IN THE LAST FOUR YEARS?

10 Q YES.

11 A I DON'T KNOW. MAYBE FORTY TO FIFTY
12 DIFFERENT INVESTIGATIONS.

13 Q DO YOU REMEMBER THE NAMES OF THE MEMBERS
14 OF THE RICHMOND COUNTY DISTRICT ATTORNEY'S OFFICE
15 WHO WERE ASSIGNED TO EACH OF THOSE INVESTIGATIONS?

16 A I DO NOT, BECAUSE WHEN I TELL YOU I'VE
17 WORKED ON ALL OF THOSE INVESTIGATIONS, I WAS NOT
18 THE LEAD INVESTIGATOR ON ALL OF THOSE
19 INVESTIGATIONS.

20 THEY WERE JUST INVESTIGATIONS THAT I WAS
21 INVOLVED IN WITH OTHER MEMBERS OF NARCOTICS FROM
22 THE OFFICE.

23 Q WHY DO YOU REMEMBER THAT KELLY CAROL AND
24 MICHELLE MULFETTA WERE ASSIGNED TO THE
25 INVESTIGATION GIVING RISE TO THIS LAWSUIT?

1 R. WITTICK

2 A BECAUSE FROM 2012 UNTIL, I WANT TO SAY
3 2014, I BELIEVE, I HAD A LONG-TERM WIRETAP
4 INVESTIGATION THAT BEGAN IN EARLY 2012 AND
5 CONTINUED UNTIL 2014, AND KELLY CAROL AND MICHELLE
6 MULFETTA WERE THE DISTRICT ATTORNEYS FOR THAT CASE
7 IN ITS ENTIRETY, AND I WAS A CO-LEAD INVESTIGATOR
8 ON THAT CASE.

9 Q OF THE FORTY INVESTIGATIONS FOR DRUG
10 CONSPIRACY THAT YOU HAVE BEEN INVOLVED IN IN THE
11 LAST FOUR YEARS, HOW MANY INVOLVED WIRETAPPING?

12 A THREE OR FOUR I WANT TO SAY.

13 Q DO YOU REMEMBER THE NAMES OF THE MEMBERS
14 OF THE DISTRICT ATTORNEY'S OFFICE IN RICHMOND
15 COUNTY WHO WERE ASSIGNED TO THOSE INVESTIGATIONS?

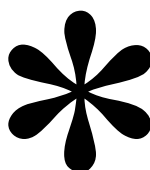
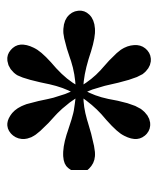
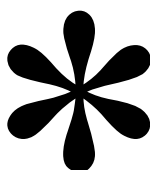
16 A THE ONE NAME I DO REMEMBER WHO WAS
17 INVOLVED IN THE INVESTIGATION, HE NO LONGER WORKS
18 FOR THE RICHMOND COUNTY DISTRICT ATTORNEY'S
19 OFFICE. HE'S MOVED ONTO A DIFFERENT JOB.

20 WOULD YOU LIKE ME TO TELL YOU HIS NAME?

21 Q YES.

22 A HIS NAME WAS GUY TARTANICO.

23 Q DO YOU REMEMBER THE NAMES OF THE MEMBERS
24 OF THE RICHMOND COUNTY DISTRICT ATTORNEY'S OFFICE
25 WHO WERE ASSIGNED TO THE OTHER TWO INVESTIGATIONS



1 R. WITTICK

2 INVESTIGATION?

3 A I DON'T THINK I EVER SPECIFICALLY
4 SURVEILLED SUNDRA FRANKS. I WAS SURVEILLING
5 SOMEONE ELSE AND SUNDRA FRANKS HAPPENED TO ME
6 THERE.

7 Q SO WHEN I ASKED YOU BEFORE HOW SUNDRA
8 FRANKS BECAME PART OF THIS INVESTIGATION, YOU SAID
9 SURVEILLANCE?

10 A YES.

11 Q DID YOU ACTUALLY MEAN SOMETHING ELSE?

12 A NO. LIKE I SAID, THROUGH SURVEILLANCE
13 HE WASN'T A TARGET OF THE INVESTIGATION, BUT
14 DURING THE COURSE OF MY DOING SURVEILLANCE ON
15 OTHER TARGETS OF THE INVESTIGATION I HAPPEN TO
16 OBSERVE SUNDRA FRANKS.

17 Q WHAT DID YOU OBSERVE SUNDRA FRANKS
18 DOING?

19 A I DON'T REMEMBER THE EXACT DATE AT THE
20 MOMENT, BUT I -- ON ONE SURVEILLANCE I OBSERVED,
21 WHILE -- LET ME CLARIFY THAT.

22 WHILE SURVEILLING A SUBJECT OF OUR
23 INVESTIGATION --

24 THE WITNESS: DO I SAY HIS NAME OR?

25 MS. SWARTZ: YEAH, YOU CAN.

1 R. WITTICK

2 A WHILE SURVEILLING RAUMELL DURAN, WHO WAS
3 A ACTIVE SUBJECT IN THE WIRE INVESTIGATION, ON ONE
4 SURVEILLANCE I OBSERVED SUNDRA FRANKS DO A
5 HAND-TO-HAND NARCOTICS TRANSACTION IN THE PRESENCE
6 OF RAUMELL DURAN.

7 Q DID YOU OBSERVE SUNDRA FRANKS DO
8 ANYTHING ELSE ILLEGAL DURING THE COURSE OF THIS
9 INVESTIGATION?

10 A NOT THAT I REMEMBER.

11 Q DID DETECTIVE TARINO EVER TELL YOU IF HE
12 OBSERVED SUNDRA FRANKS ENGAGE IN ANY ACTIVITY THAT
13 WOULD JUSTIFY ADDING HIM TO THIS INVESTIGATION?

14 MS. SWARTZ: OBJECTION. YOU CAN ANSWER.

15 A NOT THAT I REMEMBER.

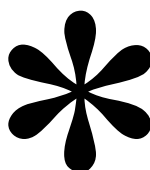
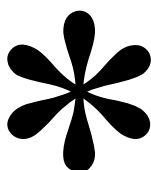
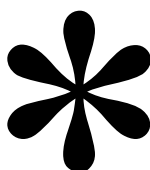
16 Q DID DETECTIVE TARINO EVER TELL YOU IF HE
17 OBSERVED SUNDRA FRANKS ENGAGE IN ANY ILLEGAL
18 ACTIVITY?

19 A NOT THAT I REMEMBER, NO.

20 Q DID ANYONE EVER TELL YOU THAT THEY HAD
21 OBSERVED SUNDRA FRANKS ENGAGE IN ANY ILLEGAL
22 ACTIVITY?

23 A DURING THE COURSE OF THIS INVESTIGATION
24 OR IN THE PAST?

25 Q LET'S START WITH THIS INVESTIGATION.



1 R. WITTICK

2 MS. SWARTZ: OBJECTION.

3 Q DID YOU OBSERVE THIS UNKNOWN MALE BLACK
4 MAKE PHYSICAL CONTACT WITH ANY OF THE THREE
5 INDIVIDUALS STANDING AT THAT LOCATION?

6 A I OBSERVED HIM TOUCH HANDS WITH SUNDRA
7 FRANKS, WHICH I BELIEVED FROM MY EXPERIENCE AND
8 TRAINING TO BE A HAND TO HAND DRUG TRANSACTION.

9 Q WHAT ABOUT THE CONTACT LED YOU TO
10 BELIEVE IT WAS A HAND TO HAND DRUG TRANSACTION?

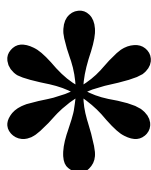
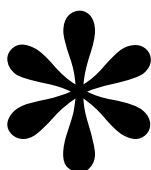
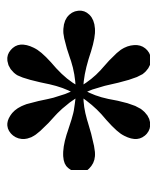
11 A FROM MY TRAINING AND EXPERIENCE, WHEN
12 TWO INDIVIDUALS MEET AND ONE INDIVIDUAL EXCHANGES
13 A SUM OF UNITED STATES CURRENCY TO ANOTHER
14 INDIVIDUAL THAT APPEARS TO HAND HIM AN OBJECT INTO
15 HIS HAND OR SEVERAL OBJECTS INTO HIS HAND, THAT IS
16 INDICATIVE OF A HAND TO HAND DRUG TRANSACTION.

17 I HAVE MADE HUNDREDS OF ARREST IN MY
18 CAREER JUST BASED OFF OF THOSE OBSERVATIONS.

19 Q SO IS IT YOUR UNDERSTANDING THAT IT IS
20 PERMISSIBLE TO ARREST AN INDIVIDUAL FOR A HAND TO
21 HAND DRUG TRANSACTION WHERE YOU OBSERVE TWO
22 INDIVIDUALS TOUCH HANDS AND EXCHANGE MONEY?

23 MS. SWARTZ: OBJECTION. YOU CAN ANSWER.

24 A IT'S PERMISSIBLE TO GIVE ME PROBABLE
25 CAUSE TO STOP TWO INDIVIDUALS WHO I BELIEVE



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R. WITTICK

MANY TIMES HAD YOU SEEN SUNDRA FRANKS BEFORE?

A IN THE PAST?

Q YES.

A I COULDN'T PUT A NUMBER ON IT. PROBABLY
HUNDREDS OF TIMES.

Q AFTER APRIL 18, 2012, HOW MANY TIMES
HAVE YOU SEEN SUNDRA FRANKS?

A A BUNCH OF TIMES. AGAIN, AT LEAST A
HUNDRED TIMES.

Q AFTER AUGUST OF 2013, HOW MANY TIMES HAD
YOU SEEN SUNDRA FRANKS?

MS. MASSIMI: OBJECTION. GO AHEAD.

A AT LEAST, AGAIN, PROBABLY A HUNDRED
TIMES.

Q WHAT KIND OF INTERACTIONS, IF ANY, HAVE
YOU HAD WITH SUNDRA FRANKS SINCE AUGUST OF 2013?

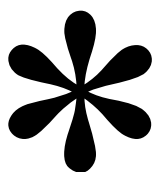
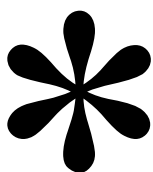
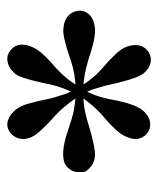
A I HAVEN'T HAD ANY INTERACTIONS WITH
SUNDRA FRANKS SINCE AUGUST OF 2013.

Q HAVE YOU EVER SPOKEN TO HIM SINCE THAT
TIME?

A NO.

Q HAVE YOU EVER ENCOUNTERED HIM ON STREET?

A WHEN YOU SAY, ENCOUNTER, WHAT DO YOU
MEAN BY THAT?



1 R. WITTICK

2 A WHAT MR. FRANKS DID IN THE PAST WASN'T
3 RELEVANT TO THE INVESTIGATION THAT WAS GOING ON
4 RIGHT NOW.

5 Q SO IT'S YOUR TESTIMONY THAT THAT WOULD
6 NOT HAVE BEEN A POINT OF CONCERN FOR MEMBERS OF
7 THE DISTRICT ATTORNEY'S OFFICE?

8 MS. SWARTZ: OBJECTION. YOU CAN ANSWER.

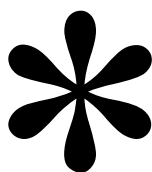
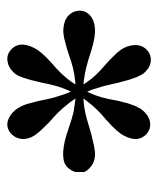
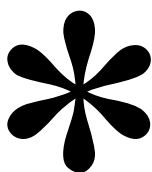
9 A I DON'T KNOW WHAT WOULD OR WOULD NOT
10 HAVE BEEN A POINT OF CONCERN FOR THE DISTRICT
11 ATTORNEY'S OFFICE, BUT I KNOW THAT BECAUSE
12 SOMEBODY HAS A CRIMINAL HISTORY IN THE PAST THAT
13 DOESN'T GIVE, I DON'T BELIEVE THAT GIVES SOMEBODY
14 THE RIGHT TO, YOU KNOW, JUST INDICT THEM.

15 I HAVE NO IDEA. LIKE I SAID, I DON'T
16 WORK FOR THE DISTRICT ATTORNEY'S OFFICE. I WORK
17 FOR THE POLICE DEPARTMENT. ALL I DID WAS GIVE THE
18 DISTRICT ATTORNEY MY DD5S AND THEY DECIDED WHO WAS
19 GETTING INDICTED AND WHO WASN'T GETTING INDICTED.

20 Q ALL YOU DID WAS GIVE THE DISTRICT
21 ATTORNEY YOUR DD5S AND THEY DECIDED WHO WAS
22 GETTING INDICTED?

23 A AND I TESTIFIED IN THE GRAND JURY.

24 Q DID YOU ALSO HAVE OFF-THE-RECORD
25 CONVERSATIONS WITH MEMBERS OF THE DISTRICT



1 R. WITTICK

2 Q AND HOW WAS HE DOING THAT?

3 A HE WAS WORKING FOR RAUMELL DURAN FROM MY
4 BELIEFS THAT NIGHT.

5 Q ANYTHING OTHER THAN YOUR BELIEFS?

6 A MY OBSERVATIONS.

7 Q WHAT WERE THOSE OBSERVATIONS?

8 A LIKE I SAID, FROM MY DD5 BEFORE. HE
9 ENGAGED IN WHAT I BELIEVED TO BE A HAND-TO-HAND
10 TRANSACTION AND HE GAVE THE PROCEEDS TO RAUMELL
11 DURAN.

12 Q DO YOU KNOW WHY MR. FRANKS' CHARGES WERE
13 DISMISSED?

14 A I DO NOT.

15 Q WHY WAS MR. FRANKS CHARGED WITH
16 CONSPIRACY IN THE FOURTH DEGREE?

17 MS. SWARTZ: OBJECTION.

18 A I DON'T KNOW. I DIDN'T FILL OUT THE
19 ARREST REPORT FOR MR. FRANKS.

20 Q DO YOU BELIEVE THAT MR. FRANKS WAS
21 ACTING IN CONCERT WITH RAUMELL DURAN?

22 MS. SWARTZ: OBJECTION. YOU CAN ANSWER
23 IT.

24 A YES.

25 Q WHEN DID YOU FORM THAT OPINION?